THE CANADIAN BAR ASSOCIATION.

CANADA has come to national consciousness through the world war. It is today a nation as it was not two years ago. It was then a self-governing democracy with complete autonomy in its own affairs, although as a member of the British Empire it was nominally subject to the British government and, of course, became involved in the consequences of the Imperial diplomacy and war-making. In its internal affairs, Canada is practically subject only to judgments of the highest court of appeals in the British Empire for hearing causes from overseas members of the Empire, namely, the Judicial Committee of the Privy Council. This court is made up of eminent British judges, with direct representation of the Overseas Judiciaries—in the case of Canada by her Chief Justice. The judgments of the Judicial Committee of the Privy Council are binding throughout the Empire as the judgments of our Supreme Court are binding throughout the Union. The right of appeal to the Judicial Committee of the Privy Council, however, is maintained as a privilege and not as a duty, and will be cut off whenever Canada desires to determine causes finally by the judgment of her own Supreme Court.

What Canada's relation to the British Empire shall be after the world war will depend upon Canada's desires respecting it. Absolute independence she will not desire, but she could have it if she did. Representation in the Imperial Parliament or the Imperial cabinet she may or may not desire; but she will have that if she desires it, and in the form which she may prefer. The post-bellum problems of Canada, as of the British Empire generally, will be as important as the war problems; and already far seeing men are thinking of them. But they will be thought out slowly according to the British fashion and with a view to permanent settlement of relationships and principles of action. But one thing is already apparent: Canada has become a nation. The fires of war have welded together her separate pro-

vinces very much as the Civil War welded together the states of the Union. She has now a national spirit, takes national views, plans national policies. The three hundred and fifty thousand volunteers, stepping out from the eight millions of population before the end of the second year of the war, are not only officially but actually Canadians at home and beyond the seas. Their achievements are the pride and the glory of all Canada, as are the sacrifices and sufferings of those in the homes of Canada who have made the volunteer army possible.

This new sense of national unity will have no more important result in Canada than the improvement of her laws and their administration, which is one of the chief objects of the newly formed Canadian Bar Association. The organization of that Association two years ago is a striking example of the new national consciousness of Canada. Such an Association could not have been organized before the war with any prospect of success. We must remember that the American Bar Association is not yet forty years old, and that it would not have been possible before the Civil War, nor even much before 1878 when it was organized. State pride was as strong in lawyers as in laymen. The state bar associations and other organizations of lawyers, some of them of long duration and memorable traditions and great influence, thought a national organization of lawyers unnecessary. The organizers of the American Bar Association, fortunately comprising many leaders of state organizations, had a difficult and delicate task which we of the present day can hardly fully appreciate.

Likewise, the organizers of the Canadian Bar Association have had to consider carefully the natural feelings of the provincial law societies, some of them—as in Ontario and Quebec—ancient, distinguished and powerful. Those organizers, and especially Sir James Aikins, K. C., of Winnipeg, Manitoba, president of the Canadian Bar Association, who has done more than any other one man to make it possible, have shown the same tact and courteous consideration shown by the organizers of the American Bar Association and with the same effect. The success already achieved and the much greater success promised are largely due to the manner in which the Association has been launched. The members of the American Bar Association have good reason to

follow the development of the Canadian Bar Association with the deepest interest; because we are told that the idea was born at the unique meeting of the American Bar Association in Montreal in September, 1913, where Lord Chancellor Haldane delivered the principal address, which was attended not only by twelve hundred lawyers from the United States headed by the Chief Justice of the United States, and including many of our judges, but also by the flower of the bench and bar of Canada headed by the Chief Justice of Canada. At the meeting of the American Bar Association in Washington the next year, the Chief Justice of Canada and Sir James Aikins led the distinguished delegation of the Canadian bar who became more intimately acquainted with the purpose and operations of the American Bar Association, and following that meeting they perfected the organization of the Canadian Bar Association along the general lines of the American Bar Association.

"Its objects," says the constitution, "shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout Canada so far as consistent with the preservation of basic systems of law in the respective provinces, uphold the honor of the profession of law and encourage cordial intercourse among members of the Canadian bar." The initial meeting was held in Ottawa; the meeting of 1915 in Montreal; the meeting of 1916 in Toronto and the meeting of next year is to be held at Winnipeg. Already, through the character of the leaders who represent all the Provinces of Canada, through the success of its annual meetings and through the admirable beginning of its practical work towards furthering uniformity of law and legislation throughout Canada, the Association has won the confidence of the Dominion as well as the respect and regard of her lawyers. A notable evidence of this fact is that five of the nine provincial governments, Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick, have made appropriations from provincial treasuries towards the expense of the Association in making comparative study of the law of the provinces and of the Dominion "to arrange the principles on which all will agree" to quote from the presidential address of Sir James Aikins at Toronto, and "to codify and consolidate them into

proper form for submission to the several governments." So far as we know, no state has ever so contributed to the similar work of the American Bar Association; although some states have provided for the actual expenses of their representatives upon the commissions on uniform laws which were created upon the suggestion and under the influence of the American Bar Association. Other states and the District of Columbia have expected their representatives on such commissions to give not only time but money to the task.

The example set by the American Bar Association in bringing about the appointment of the National Conference of Commissioners on Uniform State Laws and in other ways promoting uniformity of laws and also uniformity of procedure was in the minds of the organizers of the Canadian Bar Association, and they have derived much encouragement in beginning a similar task from the success of the efforts in that direction in the United States. The extent of that success is not, perhaps, appreciated by most lawyers in the United States. Those who were present at the 1915 meeting of the American Bar Association at Salt Lake City, or who have read the published reports which were made there, know, what all lawyers ought to know, that the attempts to improve the law and procedure have been remarkably successful. Twenty-five years had passed since the first meeting of the National Conference of Commissioners on Uniform State Laws, which held its annual meeting, as usual, at the same time as the meeting of the American Bar Association at Salt Lake City. In the report of the Conference, as in the report of the American Bar Association, the work of the twenty-five years was appropriately reviewed. It appeared that during the quarter of a century the National Conference had prepared, through its committees of experts, fifteen drafts of acts for uniform laws. The list of the drafts for the twenty-five years was reported as follows: Uniform Negotiable Instruments Act; Uniform Sales Act; Uniform Warehouse Receipts Act; An Act Regulating Annulment of Marriage and Divorce; Uniform Bills of Lading Act; Uniform Stock Transfer Act; An Act Relating to Desertion and Non-Support of Wife by Husband, or of Children by either Father or Mother, and Providing Punishment Therefor, and to

Promote Uniformity between the States in Reference Thereto; An Act Relative to Wills Executed Without the State and to Promote Uniformity Among the States in That Respect; An Act Relating to and Regulating Marriage and Marriage Licenses, and to Promote Uniformity Between the States in Reference Thereto; Uniform Child Labor Law; An Act on the Subject of Marriages in Another State or County in Evasion or Violation of the Laws of the State of Domicile; An Act to Make Uniform the Law of Acknowledgments to Deeds or Other Instruments Taken Outside the United States; Uniform Partnership Act; Uniform Cold Storage Act and Uniform Workmen's Compensation Act. The National Conference includes commissioners from all the forty-eight states, and also from Alaska, Hawaii, District of Columbia, Philippine Islands and Porto Rico; so that the drafts are now proposed for adoption in fifty-three jurisdictions. The report showed that four of these drafts, those proposing a Uniform Marriage License Act, Uniform Child Labor Law, a Uniform Acknowledgments Act and a Uniform Cold Storage Act (the two latter approved by the National Conference only in October, 1914), had not been adopted in any jurisdiction; but that the Uniform Negotiable Instruments Act, the first one proposed by the National Conference, had been adopted in forty-seven jurisdictions; the Uniform Warehouse Receipts Act in thirty jurisdictions; the Uniform Sales Act in fourteen jurisdictions; the Uniform Bills of Lading Act in thirteen jurisdictions; the Uniform Probate of Foreign Wills Act in eleven jurisdictions; the Uniform Stock Transfer Act and the Uniform Family Desertion Act in nine jurisdictions respectively; the Uniform Marriage Evasion Act in four jurisdictions; the Uniform Divorce Act and the Uniform Partnership Act in three jurisdictions respectively and the Uniform Workmen's Compensation act (which had been approved by the National Conference in October, 1914) in one jurisdiction.

While this record of achievement seems very encouraging, the remarks upon it in the report of the Secretary of the National Conference indicate that much remains to be done. As that report says:

> "An examination of the subject matter shows that no act approved by the Conference and recommended by it for adop-

tion has been adopted by all the jurisdictions of the United States; that some of the acts which were approved some years ago have been adopted in none of the states; that there are sufficient acts approved and jurisdictions which have not adopted them to afford a broad field for the work of this Conference; that no state has adopted every act approved by the Conference, so that the commissioners from every state may have something to work on at home.

"A successful campaign for the adoption by all jurisdictions of the acts already approved would do more to promote uniformity than the continued approval by this Conference of acts, even on important subjects, with no following campaign to secure their enactment into law in the different jurisdictions.

"The acts approved by this Conference are unquestionably prepared with greater skill, care and ability than most acts ordinarily introduced into state legislatures. The acts which this Conference has approved are the result of careful study and consideration by the committees of this Conference, supplemented by the discussion and consideration of the Conference itself at several sessions during a period of years. To this consideration and discussion is brought the experience of lawyers of ability from all over the country, having in mind the needs and conditions of their respective sections. Acts prepared with such care ought to command the very careful consideration of all legislators who stop to consider what is necessary to make good law on the subjects which the Conference has treated. With the record which the Conference now has of acts approved in this manner, and recommended for adoption, it should be able to conduct a campaign that would result in the enactment of a large part of these acts in practically every state, territory and possession of the United States."

At the 1915 meeting of the Conference of Commissioners on Uniform State Laws, three additional drafts of laws were approved. These were: first, "An Act to Provide for the Settlement, Registration, Transfer and Assurance of Titles to Land and to Establish and Designate Courts of Land Registration with Jurisdiction for Such Purpose, and to Make Uniform Laws of the States Enacting the Same," which is an application of the so-called Torrens land title system, originally enacted in South Australia in 1858 and subsequently adopted in Australasia and New Zealand, in certain Provinces of Canada and in nine

states of the Union besides Hawaii and the Philippine Islands; second, "An Act Providing for the Probate in this State of Probated Foreign Wills and to Make Uniform in that Regard the Laws of the States Enacting the Same" and third, "An Act to Prevent and Punish the Desecration and Mutilation or Improper Use of the Flag of the United States of America and of this State and of Any Flag, Standard, Color or Ensign Authorized by Law." The titles of the latter two explain their scope and their purpose.

An important part of the task of securing uniformity in law is that of bringing about uniformity of decisions which is as essential as uniformity of statutes. The necessity of such effort has been impressed upon the committee of the American Bar Association on the subject of uniformity of law, and it has within the past two years taken measures to secure such uniformity. In its annual report to the American Bar Association for the present year, 1916, that committee explains this form of its activities as follows:

> "It must be borne in mind that while we are devoting our attention consistently and persistently to the proposition of securing uniformity of statutes on certain subjects throughout the United States, we must not overlook an equally important phase of uniformity of law. We must, coincidentally with our efforts in behalf of uniformity of statute law, give attention to that body of law which, as distinguished from the statutory law, is referred to as 'judge-made law.' It is, of course, obvious that, from the point of view of the ultimate accomplishment of uniformity, mere uniformity of statute without uniformity of decision would be at the best but a half accomplishment. To the extent that uniform statutes in the various states are interpreted variously and differently by different courts, to just that extent the efforts at uniformity embodied in our statutes, put forth with so much study, debate and painstaking labor, are rendered abortive. May we submit to you that it is well within the province of this body, viewing state law as made up, as well of judge-made law as of statute law, to exercise the same kind of care, diligence and enthusiastic activity to influence judicial decisions into the channel of uniformity as it has heretofore for something like 25 years exercised to bring legislative determinations into the channel of uniformity?
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> "We are, of course, at the outset of the contemplation of

such an idea brought to a hesitating attitude because of the natural reluctance to make suggestions to judicial officers, even in so important, not to say vital, a matter. On the other hand, is this not a false and baseless timidity? Have we any right, in view of our duties, to allow this kind of conventional regard, justifiable, nay, even essential in other respects, to deter us from at least bringing to the knowledge of the courts the work of this Committee on Uniformity of State Laws, the purpose which it is our duty as such committee to subserve in behalf of our respective states, and in behalf of the American Bar Association, and the necessity of the coöperation of the Bench, if the work which we have in hand is to succeed in accomplishing, ultimately, uniformity in full measure.

"Accordingly, your committee in coöperation with the Conference of Commissioners has addressed during the last two years communications to all of the courts of last resort and to some of the intermediate courts, calling their attention to the work which has been done, and which will continuously be done, in behalf of uniformity of laws, and emphasizing the desirability, not to say necessity, of uniformity of judicial decision if the work is to achieve its full accomplishment; and submitting to such courts the provisions of the various Uniform State Laws requiring such interpretation and construction as shall promote the purpose of uniformity embodied in the acts. This branch of our work has produced most gratifying results. Not only have the courts been prompted to recognize the importance of the work, but they have also been enthusiastic to promote it by their decisions. This has perhaps been best illustrated by the case which went up to the United States Supreme Court from the State of Louisiana, and in which Associate Justice Hughes, writing the opinion for the Supreme Court, took occasion to remark upon the character of the work for uniformity of state laws, the necessity of interpreting those laws so as to promote the uniformity intended by them, and in so doing necessarily to avoid following decisions of the state courts based upon former law differing from the uniform law or pronouncing an interpretation of the Uniform Act at variance with its general purpose of uniformity. The decision of the Circuit Court of Appeals of Louisiana was accordingly reversed because of a failure to follow those canons of interpretation which the Uniform Act there under consideration required. The case is a notable example for the state courts and other jurisdictions to follow."

In giving the outlines of the operation of the American Bar Association and of the Conference of Commissioners on Uniform State Laws, and the results already achieved, we have shown what is before the Canadian Bar Association in its similar undertaking. The leaders of that Association have no illusions as to the difficulties of its important task in this field; but, on the other hand, they have no misgivings as to the ultimate success of intelligent and patient efforts. They did not blink, for example, the obstacles that might arise out of the peculiar jurisdictions and laws of the respective provinces, nor even the apprehension that would arise in the minds of lawyers of a province as to the effect of such a movement upon the rights of their province or possibly autonomy.

All Americans know that the Province of Quebec has a system of laws different in some respects from that of the other provinces of Canada and dear to its inhabitants for historical as well as practical reasons. In 1663, Louis XIV gave "New France" the laws of Old France, in so far as they were applicable; and the civil law of France—drawn, of course, from the civil law of Rome—has been in force in Quebec ever since, except for the short period between 1763, when, after the capture of Quebec by Wolfe, his successor General Murray as governor by proclamation substituted the laws of England for those of France, and the passage by the British Parliament of the Quebec Act of 1774 which restored the old regime as being more suitable for the Province. Even the British North American Act, the constitution of the Dominion of Canada of 1867, omits Quebec from the list of provinces for which the Parliament of Canada may make provision for the enforcement of law relating to procedure and civil rights with the concurrence of the respective provincial legislatures. It will be seen at once that lawyers and laymen of the Province of Quebec would be naturally jealous of the civil rights and legal procedure established in such manner, and might well look with suspicion upon what might seem to them to propose substitution of the English or even the Canadian common law for the civil code embodying the French and Quebec law now existent in the province.

Fortunately, eminent Quebec barristers, leaders of the bar of

Montreal, the City of Quebec and other jurisdictions, took an active part in the organization of the Canadian Bar Association and in the adoption of its constitution including its plan for such uniformity of law as was practicable, and they were able to show to their fellow citizens of the province that the projects of the Canadian Bar Association did not threaten in any way impairment of provincial autonomy or other constitutional changes. They emphasized the proviso in the Association's constitution that these attempts to secure uniformity of law throughout Canada should be only in "so far as consistent with the preservation of the basic system of laws in the respective provinces."

They were also able to point to the example of the American Bar Association and of the Conference of Commissioners on Uniform State Laws on this point. In his enlightening address at the 1915 meeting of the Canadian Bar Association, Eugene Lafleur, D. C. L., K. C., an eminent French barrister of Quebec, quoted from the address of Mr. Charles Thaddeus Terry, chairman of the American Bar Association Committee on Uniform State Laws, at the Washington meeting, October, 1914, when he said:

> "We are not advocating centralization of government. We are not advising the obliteration of state lines. On the contrary, we would deprecate the former and warn against the latter. Our faith in the dual sovereignty, and the nice checks and balances of our system of government has grown in these latter days, as the assaults upon it from both friends and foes have disclosed at once their own futility and the inherent soundness of the object of their attack."

Commenting upon these remarks, Mr. Lafleur said:

> "Our programme, in fact, is identical with that of the American Bar Association which about a quarter of a century ago started the movement for unification in the United States. There, as you know, the antagonism which began in the time of Hamilton and Jefferson between Federalists and States Righters has been far more acute than our own controversies with respect to Dominion and provincial powers, and the American constitution confers far less powers on the central government than the British North America Act does on the Dominion Parliament. But notwithstanding this handicap

a large field for useful work has been found and a remarkable achievement has been recorded.

"It is worthy of note that the State of Louisiana, which, like the Province of Quebec, is governed by the civil law, has participated in the movement for uniformity, and has, up to this date, passed seven out of the nine measures presented to its legislature for adoption."

Sir James Aikins, president of the Canadian Bar Association, made an illuminating explanation as to the law in Quebec, in his presidential address in 1915 when he said:

"The Canadian lawyer knows the statement to be inaccurate that the law in Quebec differs from the law in the other provinces in that the former is the Civil Code, the other the common law, for he knows: (1) That there applies to all the Dominion that body of the law adopted by our Federal Parliament touching matters within its jurisdiction, e. g., the laws relating to citizenship, crime, the regulation of trade and commerce, banks, militia and defense, patents, etc. (2) That those questions which come within the public law, using a general term, are governed in Canada, including Quebec, by the law of England as modified by legislation of the central authority. But, in so far as the provinces have jurisdiction under the British North American Act, and speaking generally, the system of law known as the Civil Code of Lower Canada does govern in Quebec and the common law system in the other provinces."

And Mr. Lafleur in his address, to which reference has been made, throws additional light upon the matter. In discussing the subjects upon uniformity of law which might well be obtained within the limits of the Association, he says:

"In no field of jurisprudence will greater unanimity be found to exist in favour of more uniformity than in that of commercial law. There are really no obstacles in our way, for the principles of the 'law merchant' are much the same all over the world, and even in countries where ordinary contracts are governed by the civil law, mercantile relations are frequently regulated by a commercial code based on international usage. Moreover, in Canada, a very important part of this field is under the control of the Dominion Parliament, and we have Federal codes on Bills of Exchange and Promissory Notes, Banks and Banking, Savings Banks, Naviga-

tion and Shipping, Patents and Copyrights, Currency, and Coinage. The Canadian Parliament has also exclusive legislative jurisdiction over Bankruptcy and Insolvency.

"As to the portions of mercantile law not committed to the legislative action of the central parliament there can be no difficulty in harmonizing the law of all the provinces whose systems are derived from the law of England. And even as to Quebec the differences in the law on this subject are negligible. The codifying commissioners in their report on the fourth book of the Code dealing with Commercial Laws state that our system has been borrowed without much discrimination partly from France and partly from England, and that the laws of commerce are of universal application and for the most part differ little in different countries except in matters of detail. Again, the law of evidence in commercial cases is of English origin, and our Code provides (C. C. 1206) that, except in the rare cases where special provisions are contained therein for the proof of facts concerning commercial matters, recourse must be had to the rules of evidence laid down by the laws of England.

"It is unnecessary to state that our merchants and manufacturers, from Halifax to Vancouver, would welcome as an inestimable boon the unification of our commercial laws.

"No one realizes as keenly as they do that diversity and multiplicity of laws in a great commercial community means a fixed charge on any business for legal advice and litigation, and a corresponding diminution of profits. Really, the only people who might be supposed to object to a simplification of the law are the lawyers themselves, who might be driven out of business. But, while it seems to be regarded as axiomatic that our manufacturers need protective legislation, I have never heard it contended that the activities of the legal profession require any artificial stimulation."

Mr. Lafleur, speaking undoubtedly the sentiments also of other representative members of the Canadian Bar Association, gave what he thought to be the measures that should first be considered by the Association and the reasons for them. The Canadian Bar Association through its committees, is already at work upon such measures. In his address Mr. Lafleur thus outlined some of the objects to be attained:

"What could be more beneficial to the business community than a uniform statutory code on Commercial Sales? No difficulty has been found in applying the 'Sale of Goods Act'

to England and Scotland, and we have seen that the 'Sales Act' has already been adopted in eleven jurisdictions in the United States.

"The law of Insurance in Canada presents an example of wasteful and unnecessary discordance. Every province has an insurance law of its own, for the most part in the form of a statutory code, and while these systems are not differentiated by any fundamental principles, they abound in minor diversities calculated to produce conflicts and uncertainty. For instance, the statutory conditions prescribed for insurance policies vary in the several provinces, so that a great transcontinental railway is unable to get a uniform cover on its rolling stock throughout Canada, but must submit to a modification of its contract every time it crosses a provincial boundary line. The matter is further complicated by the fact that a Dominion Insurance Law is superadded to the various provincial enactments, and the companies must satisfy the requirements of nine or ten insurance departments before they can do business throughout Canada.

"Further confusion is created by the fact that certain portions of the Dominion Insurance Act have been held to be unconstitutional and the matter is still pending before the Privy Council. How much better it would be for insurers and insured if we could standardize the policy conditions and have a uniform Insurance Act adopted by all our legislatures?

"Our Company law is in an equally unsatisfactory condition. There are nine different kinds of provincial laws governing joint stock companies, and a Federal law in addition. The provinces are given the power of incorporating companies 'with provincial objects' and the Dominion incorporates those whose objects are not so restricted. We have been litigating for years in order to ascertain the scope and meaning of these restrictive words, with the result that a great diversity of judicial opinion has been expressed, and that this question is also awaiting the decision of the Judicial Committee. Whatever the answer may be, it will not abolish the needless contrariety of these ten different systems, nor give our Company law the simplicity, certainty and uniformity which is so desirable if we intend to go on floating our securities abroad. In the address to which I have already referred, Mr. Terry informs us that in the United States the sentiment is unanimous in favour of a Uniform Incorporation Act which will bring about 'corporate regen-

eration' and do away with the 'fierce competition of various states to secure, at any cost of state dignity, and at any sacrifice of the duty to observe state comity, the revenues which result from offering in the corporate market a maximum of powers with a minimum of responsibility.' I am afraid that some of our Canadian corporations have likewise been conceived in iniquity and born in sin, and that they too require to be born again under a new and uniform system in order to become innocuous. This is especially true in the case of corporations obtaining special and exorbitant powers from the legislatures. This evil would probably be lessened, and the legislatures would doubtless be more discriminating, if a uniform law of incorporation were adopted throughout Canada.

"Our provincial taxing statutes furnish a conspicuous instance of overlapping and conflicting legislation resulting in manifest injustice. As you know, the local legislatures have the power of imposing 'direct taxation within the province.' Whether you determine what is within the province by reference to the domicile of the owner or to the local situation of the property, it seems clear that the British North America Act did not intend that the same property should at one and the same time be regarded as being within the Province of Quebec and within the Province of Ontario. One or other of the rules as to *situs* must be adopted, but both should not prevail so as to expose the taxpayer to double taxation. And yet the ingenuity of the Treasury Draughtsman in all the provinces is exercised in reaching out beyond the jurisdiction. Take, for instance, the Ontario Amendment to the Corporations Tax Act, 1914. It purports to impose a tax calculated upon the gross premiums received by insurance companies in respect of the business transacted in Ontario, and then proceeds to enact that a premium is deemed to be in respect of business in Ontario if it is payable or if it happens to be paid in Ontario or if it is payable in respect of insurance of a person or property resident or situate in Ontario at the time of payment, even where the business is transacted wholly outside of Ontario. Inasmuch as Quebec also imposes a tax on gross premiums, these companies are inevitably exposed to double taxation on the same business. Again, take an example from Quebec. The Succession Duties Acts, 1914, tax property actually situated within the province even where the transmission takes place outside of the province, and also tax the transmission in the province of property situated outside. Similar provisions in the On-

tario Act bring about the inequitable result that the same property is twice taxed for succession duty.

"The law of Wills offers great opportunities for improvement. It should be easy to standardize all matters relating to their formal validity, so as not to defeat the clearly expressed intentions of testators. For instance, why should a holograph will, validly made according to the laws of Quebec, be inoperative as to real estate situated in the other provinces (Ross *v.* Ross, 25 S. C. R. 307)? Why should the rules governing the revocation of wills be different in different provinces, so that a person making his will when domiciled in one jurisdiction unwittingly revokes his will by becoming domiciled in another jurisdiction and marrying therein, although no such revocation would have taken place according to the law of the original domicile (Seifert *v.* Seifert, 7 Ont. Weekly Notes 440)? Again, there is urgent need for the adoption of uniform rules for the distribution of estates when the property, both moveable and immoveable, is situated in different jurisdictions. In no province is the machinery adequate for such purposes; on the contrary, there seems to be an almost total absence of such ancillary provisions as an enlightened spirit of comity between provinces would suggest, in order to facilitate the prompt and inexpensive distribution of the estates of decedents.

"Equally objectionable is the diversity in the rules governing the authority and effect in one of the provinces of judgments rendered in another. In order to facilitate the adoption of uniform rules on this subject it may be advisable in the first place to render uniform the rules of procedure relating to the assumption of jurisdiction by the courts of the different provinces, so that there may be as little overlapping and competition as possible.

"Even when we are legislating upon new questions of general interest which transcend the bounds of the province and which have no foundations in the past, we work in isolation instead of in concert. The Workmen's Compensation Acts are not based on the existing law of torts in the several provinces, but on the contrary involve a distinct departure from traditional principles. They embody a new theory which recognized the inadequacy of the ordinary legal principles of responsibility, and which substitutes therefor the view that risks incidental to a business should be a charge on that business. This was preëminently a case for coöperative effort in order to produce uniformity of treatment throughout the whole Dominion, instead of allowing sep-

arate provincial commissions to create diversity and conflict where none previously existed. As a result we have confusion, uncertainty and contrariety, where it would have been humane to make the law simple, sure and uniform, and to produce a measure that would not have compelled the unfortunate victim to go through two or three courts before ascertaining what his rights are.

"Not only does the substantive law invite the efforts of the reformer, but also the law of procedure. Many a suitor is deterred from pressing his claim in a sister province by the unfamiliar terms and methods employed in another forum than his own. Here, at least, we should not be hampered by the traditions of the past, for archaic forms and practices are survivals of a period when the rights of the litigants were too often lost sight of in the intricacies of procedure. Procedure should be the obedient handmaiden and not the arrogant mistress of substantive law. Some of our provinces have made greater strides than others in their emancipation from rigid and technical forms of practice, and nothing but good would result from an attempt to assimilate the different systems.

"The subjects which I have selected for your consideration do not by any means exhaust the list of those which might be suggested. They are merely given by way of illustration, and my purpose has been attained if I have succeeded in convincing you of the possibility and desirability of nationalizing our jurisprudence."

In view of the fact that the American press publishes as little about the affairs of Canada as the Canadian press publishes about the affairs of the United States, it is difficult for the lawyers on either side of the boundary to follow the progress of the profession, or of its undertakings in the interest of the community at large. It is unfortunate that even the law journals and other professional publications of the two countries contain so little information of this character. Considering the common interests, the reciprocal feelings, the financial, commercial, professional and other exchanges going on constantly, it is strange that a citizen of the United States must take Canadian publications to know what is going on in Canada, and a citizen of Canada must take United States publications to know what is going on in the United States. But until this condition is changed such an out-

line as has been given in this brief review of the organization and activities of the Canadian Bar Association, will be practically the only means of learning of the development of the profession and of the improvement in jurisprudence and legislation in Canada.

The cordial relations between the Bar of the Dominion and the Bar of the United States, illustrated by the friendships between individuals, and especially since the meeting of the American Bar Association in Montreal, make us regret that we are not in more constant touch with what is being done by the leaders of each Bar, and at the same time furnish a strong reason why we should endeavor to inform ourselves, notwithstanding the difficulty of doing so, as to the general trend, at least, of the work of the Canadian Bar Association.

Henry B. F. Macfarland.

WASHINGTON, D. C.